CITY HALL COUNCIL CHAMBERS
SANTA MARIA, CALIFORNIA
REGULAR MEETING

AUGUST 3, 2010

INVOCATION:
Rev. Joseph Kohler of the International House of Prayer gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:
Councilmember Patino led the Pledge of Allegiance.

CALL TO ORDER:
Mayor Lavagnino called the Regular Meeting of the City Council to order at 6:30 p.m.

ROLL CALL:
MEMBERS PRESENT
Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino.

STAFF MEMBERS PRESENT
City Manager Ness, City Attorney Trujillo, Fire Battalion Chief Johnson, Director of Public Works/City Engineer Whitehead, Accounting and Budget Manager Harvey, Director of Utilities Sweet, Police Chief Macagni, Community Development Director Appel, Director of Recreation and Parks Posada, Transit Manager O'Dell, Assistant City Attorney Sinco, and Chief Deputy City Clerk Perez.

PROCLAMATION – NATIONAL NIGHT OUT
Councilmember Cordero read a proclamation declaring August 3, 2010, as "National Night Out" in the City of Santa Maria and urging all residents of Santa Maria to participate in the fight against crime. The proclamation was accepted by Police Chief Macagni.

PUBLIC COMMENT
Ernest Armenta asked that Resolution Nos. 2010-86, 87, 88, and 89 approving the Landscape Maintenance District assessments be placed on the City's website with the maps and the totals of how much was collected, how much was spent, and how much was in reserves. He talked about the proposed jail proposition and said people were out of work and could not afford more taxes and fees.

Gary Brandes, Gold Coast Art N Frames, spoke about the prohibition against sandwich board signs and the need to advertise businesses on Main Street. He said sandwich board signs facing east and west outside the right-of-way that were visible to the traveling public would help their businesses.

Tom Davidson asked if City staff had gathered the information he asked for at the last meeting regarding the number of illegal immigrants working for the contractor on the new Transit Center.

Sharon Knotts talked about sandwich board signs and the letters that were sent to businesses. She said the letters should not have been sent since their businesses were outside the Downtown Specific Plan area and were excluded from the two-year extension. She asked why their businesses were excluded and said it should be fair for all the businesses in Santa Maria.

CONSENT CALENDAR
Councilmember Zacarías asked to have Item 3F pulled for comment.

Item 3F – Short Range Transit Plan
Councilmember Zacarías acknowledged and thanked staff for the Short Range Transit Plan. It was a product of a lot of planning and coordination over a long period of time.

She also thanked Director of Public Works/City Engineer Whitehead and Transit Manager O'Dell for the SMAT Transit Appreciation Day.

Consent Calendar Items 3A through 3F were approved on motion by Councilmember Patino, seconded by Councilmember Orach, and carried on the following vote:

AYES: Councilmembers Cordero, Orach, Patino, Zacarías, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

A. ORDINANCES
The reading in full of all ordinances and resolutions was waived. Ordinances on the Consent Calendar were adopted by the same vote cast at the first reading unless City Council indicated otherwise.

B. MINUTES
The Minutes of the Regular City Council Meeting of July 20, 2010, were approved as submitted.

C. WARRANTS
Warrant Nos. 160262 to 160609 totaling $9,219,871.30 were ordered ratified subject to having been certified as being in conformity with the budget and having been approved for payment by the Director of Administrative Services. Warrant Nos. 159702, 160151, 160366, and 160374 were cancelled.

D. PAYROLL
Payment of payroll was ordered ratified subject to having been certified by the proper Department Heads, as shown on records on file in the Department of Administrative Services and having been approved for payment by the Director of Administrative Services.

E. PROPOSITION 1B TRANSIT SECURITY FUNDS
Resolution No. 2010-91 was adopted approving receipt of Proposition 1B Transit Security funding, a grant from the State of California, in the amount of $116,119 for the installation of security cameras at the Maintenance and Operations Facility and the future Intermodal Transit Center.

Resolution No. 2010-91 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING PROPOSITION 1B TRANSIT SECURITY PROJECTS.

F. SHORT RANGE TRANSIT PLAN
Resolution No. 2010-92 was adopted approving the Short Range Transit Plan for the period 2010-2015.

Resolution No. 2010-92 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING THE SHORT RANGE TRANSIT PLAN.

PROPOSED "GOOD NEIGHBOR" ORDINANCE TO IMPROVE ABATEMENT OF BUSINESS NUISANCES AND MODIFICATION OF ENTERTAINMENT LICENSING.
Assistant City Attorney Sinco gave the staff report. The City Council is requested to introduce an ordinance amending the Santa Maria Municipal Code to repeal the existing provisions concerning entertainment licensing and permits for itinerant shows, dancehalls and other public/private dances, and enact a new "Good Neighbor" ordinance in their place. Some businesses in the City, especially those that serve alcohol and/or offer entertainment, often have law enforcement problems, such as altercations between patrons or loud music that disturbs the peace of nearby residents. In addition, private functions, including those at residential properties, occasionally become noisy or produce other nuisances. At present, the City attempts to anticipate and prevent some of these problems by issuing entertainment licenses to businesses, or by denying applications for permits for "itinerant shows" or "dances," or by imposing various conditions on the issuance of the license or permit. However, such licenses or

permits have the potential to interfere with First Amendment rights of business owners. One of the goals of the proposed ordinance was to change the method of approving licenses from a discretionary approval to a ministerial approval. A ministerial approval is one where, if all the conditions are met, the license would be issued automatically at a staff level. Discretionary approval is one where a legislative body, such as the City Council, would have the discretion to approve or not to approve the license. The proposed approach not only reduces the possibility of a legal challenge should a license be denied; but, it is also a business-friendly approach. Any business wanting to offer entertainment, or similar events or activities, would know up front what will be required by the City to obtain a license. Another goal of the ordinance was to enhance enforcement and abatement of public nuisances caused by entertainment and similar activities.

The Good Neighbor ordinance will replace the current entertainment licensing process and provide a further enforcement tool to staff to abate the unique types of nuisances caused by various "programs, events and activities," especially those that sell alcohol and offer entertainment in the form of music and dancing. The proposed ordinance will also modify the City's permitting process for itinerant shows and dances. The proposed ordinance does provide an exception from the Good Neighbor licensing requirement for private functions that are not held open to the public, provided that no admission charge is required to attend and all attendees are present with the express or implied permission of the property owner or other responsible party. However, even though a license is not required for such private functions, the responsible party or parties for the private function are subject to the good neighbor requirements of the proposed ordinance. These requirements include controlling the behavior of attendees so that there are no violations of the City's noise, zoning and building codes, and no improper toileting or littering. For those activities that do require a Good Neighbor license, all of the requirements are set forth in the proposed ordinance; and the City will issue a license if all the requirements are met. He further reviewed the specific components of the ordinance. He announced that one change needed to be made to the ordinance in Section 4-7.03(7) to add in the first sentence: "For all other programs, events, or activities where..." and the word "if" removed as well as the word "not."

Councilmember Zacarías used an example of a private party where alcohol would be served and a small share-of-cost charged and asked if that would require a license.

Assistant City Attorney Sinco explained that would not necessarily require a license. It could be classified as a voluntary sharing of expenses by people who want to have a party.

Mayor Lavagnino stated the previous ordinance was sort of nebulous and this ordinance was trying to set forth the standards for issuing licenses. If a business met all the requirements, a license would be issued.

Assistant City Attorney Sinco stated staff's intent was not to change how staff reviewed these types of applications, it was to put the requirements out there so people could see what they were and decide if they wanted to apply for a license. There would be a fee charged for issuance of the license based on how much staff work was involved. That way everyone would be treated the same.

Mayor Lavagnino asked how this would affect events like Cruzin' 4 Life or the Elks Car Show, and if they would need to get a license.

Assistant City Attorney Sinco stated he did not know how those types of events were currently permitted. If they required a license under the current ordinance, they would probably need a license under the new ordinance.

Sharon Knotts asked if this ordinance would include the Fairpark property. She asked if this would include neighborhood parties, and if outhouses and live bands were allowed in residential neighborhoods.

Assistant City Attorney Sinco said it would not include the Fairpark property as it was State property. The ordinance would apply to neighborhood parties; however, most of them would be exempt. The proposed ordinance did not change the requirements of

the Noise Ordinance, and it would continue to be enforced the same way it was enforced currently.

Ernest Armenta asked about a wedding at the Veterans Hall or similar location where alcohol was served and dancing and if there would need to be a separate location for the sale and consumption of alcohol.

Assistant City Attorney Sinco explained that if the facility where the event was taking place was already licensed, they would be exempt from this ordinance. City facilities were not covered under the ordinance because the City placed stricter requirements on events held at City facilities.

Mr. Armenta asked who would be held responsible if there was a violation - the host, the property owner, the renter, or the business owner. He also asked about block parties in private communities where there was live music and alcohol. He suggested establishing a committee of community members and the Chief of Police to decide on suspending or revoking a license, rather than just the Chief of Police.

Assistant City Attorney Sinco explained that it would depend on the circumstances, many people might be held responsible. Most likely, block parties would be exempt from having to obtain a license because they were not charging for admission and not holding it open to the public. However, they would be required to obey the Good Neighbor requirements.

Councilmember Cordero gave an example of a business that was holding an event where this type of license was required and a person showed up and caused trouble that the business owner did not know about and was not able to resolve. He asked if the owner would be held accountable?

Assistant City Attorney Sinco explained that staff would need to use discretion depending on the circumstances. He talked about instances in the past where violent crimes occurred at an event and said in those cases the owner would be held accountable. Staff tried to use the benefit of experience from situations that were difficult for Police and Code Compliance to deal with in developing this ordinance.

Councilmember Cordero asked if any consideration has been given to requiring an upfront deposit that would be 100 percent reimbursable assuming that everything was complied with. People might be much more willing to comply if they knew they had money on the hook.

Assistant City Attorney Sinco replied staff had not considered that; but it was a good idea, especially for itinerant shows. Staff would have to look at that if Council wanted to include a deposit as a requirement.

Councilmember Patino read Section 4-3.45(c) regarding non-profit organizations and asked why it said the non-profit organization would receive only 50 percent of the proceeds.

Director of Recreation and Parks Posada explained that in the past, promoters would come into town, pick a non-profit agency, agree to run an event for them, and only give the non-profit agency four or five percent of the proceeds. Most of the money was going to the promoter. This ordinance would shut down those types of operations.

Councilmember Zacarías stated one of her concerns was that once a person had a license, that license had no expiration date if there were no problems. She was concerned that there could be saturation with too many businesses having the same type of entertainment. She thought the ordinance might be setting up a situation the City did not want. She liked having the entertainment licenses come to the City Council for approval. She had difficulty giving away a process that she felt needed to be connected to the elected officials. She also did not agree that it should be the responsibility solely of the Police Chief to suspend or revoke licenses. She said there should be a sufficient period of time to allow the appeal process to come before the City Council. She said it would have been helpful to have a grid showing what was required now versus what this ordinance proposed and the rational for it. She also had a

problem with having porta potties in a residential area. She was not ready to act on the ordinance and wanted additional information.

Mayor Lavagnino stated if the Council decided it wanted to take another look at the ordinance and ask for a matrix, it would be helpful to show what type of events would be exempt and what would not be.

Councilmember Orach asked if the ordinance would supplant the current entertainment license process.

Assistant City Attorney Sinco explained that the current entertainment license was being revoked and the Good Neighbor license would take its place.

Councilmember Patino stated she would not like entertainment licenses to be approved ministerially. She wanted them to continue to come before the City Council for approval.

City Attorney Trujillo stated one of the difficult tasks that staff was trying to address was taking away the discretionary decision making authority to make the approval process content neutral. That way decisions were made not on what the message was or the type of business or the type of party, but applying it uniformly. If the Council wanted to give staff direction to come back with discretionary provisions, the ordinance would suffer from potentially the same legal defects the current ordinance has. That would take some further research.

Mayor Lavagnino stated he understood what Mr. Trujillo was saying, but he believed that applicants should have the right to appeal a decision to the people they have elected to represent them.

Councilmember Cordero stated he did not have a problem with what staff was trying to do. The ordinance would clearly simplify things for the Police Department. He did not have any issues with changing this; however, he would like to consider requiring a deposit. He would be in favor of this ordinance. The Council could always look at this again in the future and see if it was working.

Ordinance No. 2010-06, as amended, enacting "Good Neighbor" provisions to the Santa Maria Municipal Code was introduced by title only for first reading and continued to the next meeting for second reading and adoption on motion by Councilmember Cordero, seconded by Councilmember Orach.

City Attorney Trujillo asked if Councilmember Cordero intended his motion to include a review six months after adoption of the ordinance and review of the feasibility of requiring a deposit.

Councilmember Cordero amended his motion to include a review six months after adoption and review of the feasibility of requiring a deposit. Councilmember Orach amended his second. The motion carried on the following vote:

AYES: Councilmembers Cordero, Orach, and Mayor Lavagnino
NOES: Councilmembers Patino, Zacarias
ABSENT: None
ABSTAIN: None

Ordinance No. 2010-06 introduced. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, AMENDING VARIOUS SECTIONS OF THE MUNICIPAL CODE TO CEASE REGULATION OF CERTAIN EVENTS AND ACTIVITIES AND TO IMPOSE GOOD NEIGHBOR RULES.

ALL-AMERICA CITY COMMITTEE FORM AND FUNCTION DOCUMENT AND COMMITTEE STRUCTURE.

Director of Recreation and Parks Posada gave the staff report. The City Council is asked to consider a recommendation from the All-America City Committee to approve the proposed Form and Function document defining the structure and operational framework for the All-America City Committee. The All-America City Committee was

originally created in 1999, after the City was awarded the designation by the National Civic League. Its mission continues to be to enhance, maintain, and evaluate the civic health and pride of the community through partnerships and creative approaches, ensuring collaboration with the public and private sector, in the true spirit of the All-America City Program. As it moves into a new decade, the Committee is looking ahead at new projects and challenges. In an effort to operate more efficiently and effectively, the Committee has worked very hard to update the All-America City Committee Form and Function Document. Its purpose is to clearly define the appointment criteria for each position, the operational structure of its meetings, and the duties and responsibilities of the individual members. The existing categories have proven to be too restrictive when seeking potential candidates. On occasion, Councilmembers have encountered instances where very qualified, interested people expressed a sincere desire to serve, only to find that they did not "fit" the criteria. For this reason, the Committee recommends adjusting the composition criteria. It is proposed that each Councilmember appoint one member to serve "At-Large", in addition to one member representing a specific category. The categories include Ethnic Diversity, Business, Non-Profits, Government, and Youth/Education, and are defined in the Form and Function Document. In order to reach the desired nine (9) member committee, it is proposed that the Mayor not have an At-Large appointment. These changes will make the appointment guidelines more flexible and easier for the Councilmembers to make appointments to the Committee. Should Council approve this plan, current members of the Committee will be reassigned to fit the new categories.

Councilmember Cordero asked what the Committee was doing that it needed to be continued since it began in 1999. He also asked if the Committee received any funding.

Director Posada explained the idea behind the All-America City Committee was a little different than the award. The Committee's job was to continue the mission that won the City the award, which was community involvement and building community partnerships. The Committee was currently working on a neighborhood block captain program where they were looking for neighbors who were interested in learning more about how government works and helping them be the liaison between the City and their local neighborhoods. They have talked about several other projects they want to work on. He said the Recreation and Parks Department provided staff support for the Committee; and if they had an event or activity, the funding would come from the Department budget.

City Manager Ness explained that there was no on-going funding for the Committee. There was a stipend provided early on that they have been using.

Councilmember Orach stated as a member of the All-America City Committee since it was formed, there was a lot of concern about what the Committee would do after the award. The Committee had really tried to come up with focus areas where they could help in the community. This revision of the Form and Function had taken a long time to develop and would help gather more members.

Mayor Lavagnino asked why categories were necessary.

Councilmember Orach stated the All-America City award required bringing all aspects of the community together. That requirement was carried forward to the Committee when it was established.

Resolution No. 2010-93 was adopted approving the Form and Function document and Committee structure for the All-America City Committee on motion by Councilmember Patino, seconded by Councilmember Cordero, and carried on the following vote:

AYES: Councilmembers Cordero, Orach, Patino, Zacarias, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

Resolution No. 2010-93 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING THE FORM AND FUNCTION OF THE ALL-AMERICA CITY COMMITTEE.

CITY MANAGER'S REPORT
City Manager Ness reported on items anticipated for the August 17, 2010, City Council meeting including the Chamber of Commerce and Economic Development Commission Annual Reports, appointments to the Block Grants Advisory Committee, and a report on proposed amendments to the City's Sign Ordinance.

ORAL REPORTS BY COUNCILMEMBERS
Councilmember Orach reported he had not been very active due to his work schedule.

Mayor Lavagnino reported he attended the Santa Maria Valley Humane Society Groundbreaking ceremony, the dedication for Sister Janet Corcoran at Joe White Park, the Museum of Flight barbeque for the Marines, the Grand Opening for the American Perspective Bank, and the Santa Maria Valley Historical Society celebration of Santa Maria Little League.

Councilmember Patino reported she attended the Santa Maria Valley Humane Society Groundbreaking, did an interview with KCOY about Fighting Back Santa Maria Valley, spent a week in Phoenix with 9 students at the CADCA Conference, attended a fundraiser breakfast at Applebee's for New Hope Baptist Church, and a fundraiser at Ambrosia for Alzheimer's.

Councilmember Zacarías reported she attended the Humane Society Groundbreaking, the Transit Appreciation Day for SMAT, Sister Janet Corcoran's dedication ceremony at Joe White Park, Future Search meetings, and participated in the Back to School Shopping Spree for the Boys and Girls Club.

Councilmember Zacarías asked if the Good Neighbor ordinance could come back before she left her position on the City Council, possibly at the October 17th meeting. She said one of the reasons she objected to the ordinance was because there was no opportunity for the public to object to an Entertainment License.

Councilmember Cordero reported he attended a gathering with the members of SEIU, the Santa Maria Valley Humane Society Groundbreaking, the Transit Appreciation Day, a Peace Week meeting, a meeting for Future Search, pitched out the first ball for the Packers game, participated in an evaluation process at Santa Maria High School to test negotiating skills of about 300 students, attended Sister Janet Corcoran's dedication ceremony at Joe White Park, a meeting at Marian Medical Center with a group of Oaxacan people, the Museum of Flight event for the Marines, a meeting with Richard Ramos who is heading up the local California Conservation Corps, a meeting at the Boys and Girls Club, barbequed for a family in Laguna Beach who won the barbeque as a silent auction item, and attended a Santa Maria Collaborative meeting sponsored by the Santa Maria-Bonita School District targeting children 0 to 5 years old to help them get ready for school.

City Manager Ness asked for clarification on the date for bringing back the Good Neighbor ordinance. He said the ordinance would not be effective until the end of September. Bringing it back before Councilmember Zacarías left office would only give staff about five weeks to evaluate the effectiveness of the ordinance.

Councilmember Zacarías stated she thought the clarification of the ordinance and the matrix that she had requested as well as researching a deposit would be brought back before the second reading of the ordinance. She asked if it would be possible to have the matrix prepared as part of the second reading.

City Attorney Trujillo stated his intent in requesting a review of the ordinance after six months was to give adequate time to review its effectiveness and also study how to incorporate a deposit and for what type of events.

City Manager Ness said staff would bring back the matrix with the second reading at the September 7th City Council meeting rather than at the next meeting.

CLOSED SESSION
The City Council recessed to a Closed Session at 8:20 p.m. to discuss Conference with Legal Counsel - regarding Existing Litigation pursuant to Subsection (a) of Government Code Section 54956.9 to discuss Gregory Carroll v. City of Santa Maria, et. al., Case No. CV 0907336.

After the Closed Session, the following report was given:

Conference with Legal Counsel – Gregory Carroll v. City of Santa Maria (Case No. 0907336) – Direction to staff was given.

ADJOURNMENT
There being no further business to come before the City Council at this time, the meeting was declared adjourned at 9:10 p.m. by Mayor Lavagnino.

APPROVED

August 17, 2010
Date

Chief Deputy City Clerk and ex officio Clerk of the City Council

ATTEST

Chief Deputy City Clerk

Mayor of the City of Santa Maria